

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB139)

Received: 5/6/2013 Received By: mduchek
Wanted: As time permits Same as LRB:
For: Dana Wachs (608) 266-7461 By/Representing: Rep. Wachs
May Contact: Drafter: mduchek
Subject: Occupational Reg. - misc Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Wachs@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Amend provision about conditions the physician doesn't believe the patient has at that time to refer to physician exercising reasonable care

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 5/6/2013						
/1		scalvin 5/6/2013	rschluet 5/6/2013		lparisi 5/6/2013	lparisi 5/6/2013	

FE Sent For:

<END>

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/?	mduchek	/1 sac 05/06/2013		_____	_____		

FE Sent For:

<END>

Duchek, Michael

From: Murray, Mike
Sent: Monday, May 06, 2013 11:41 AM
To: Duchek, Michael
Cc: wachs@rwwlawfirm.com; Meyer, Bob
Subject: AB 139 Amendment

Hi Mike,

Rep. Wachs would like to draft the following simple amendment for AB 139:

Redraft the 448.30 (7) as created by the bill to read:

"Information about alternate medical modes of treatment for conditions that a physician exercising reasonable care would conclude that the patient does not have at the time the physician informs the patient."

Thank you for your help and please let me know if you have any questions.

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Duchek, Michael
Sent: Tuesday, April 23, 2013 9:50 AM
To: Murray, Mike
Subject: RE: AB 139 Substitute Amedment

Will do.

-Mike

From: Murray, Mike
Sent: Tuesday, April 23, 2013 9:39 AM
To: Duchek, Michael
Subject: AB 139 Substitute Amedment

Hi Michael,

Rep. Hebl would like to draft a substitute amendment to AB 139 that is identical to LRB 0036/1 that you have drafted for SB 137.

Thanks for your help and please let me know if you have any questions.

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2058/2
MED:sac:rs

2013 ASSEMBLY BILL 139

April 5, 2013 - Introduced by Representatives J. OTT, SEVERSON, CZAJA, JACQUE, BROOKS, STRACHOTA, MARKLEIN, A. OTT, KESTELL, MURPHY, STROEBEL, NYGREN, BIES, BALLWEG, STONE, T. LARSON, ENDSLEY and LEMAHIEU, cosponsored by Senators GROTHMAN, VUKMIR, FARROW, COWLES, TIFFANY, OLSEN, DARLING, MOULTON and LASEE. Referred to Committee on Judiciary.

- 1 **AN ACT** *to repeal* 448.30 (1); *to amend* 448.30 (intro.); and *to create* 448.30 (7)
2 of the statutes; **relating to:** the duty of physicians to inform patients of
3 treatment options.

Analysis by the Legislative Reference Bureau

Under Wisconsin's physician informed consent law, a physician who treats a patient has a duty to inform the patient about the availability of all alternate, viable medical modes of treatment and the benefits and risks of those treatments, subject to certain exceptions. A physician who fails to so inform a patient about modes of treatment may be held civilly liable for damages under tort law. The Wisconsin Supreme Court has employed a "reasonable patient standard" to determine whether a physician has fulfilled his or her duty. Under the reasonable patient standard, a physician must disclose information necessary for a reasonable person in the patient's position to make an intelligent decision with respect to the choices of treatment. The Wisconsin Supreme Court has also held that the duty to inform a patient about alternate modes of treating the patient's condition includes the duty to inform a patient about alternate modes of diagnosing the patient's condition.

This bill instead provides that any physician who treats a patient has a duty to inform the patient about the availability of reasonable alternate medical modes of treatment and the benefits and risks of those treatments, and provides that the "reasonable physician standard" is the standard for informing a patient under the physician informed consent law. The bill provides that the reasonable physician standard requires the disclosure only of information that a reasonable physician in

ASSEMBLY BILL 139

the same or a similar medical specialty would know and disclose under the circumstances. The bill also provides that the physician's duty does not require the disclosure of information about alternate medical modes of treatment for conditions that the physician does not believe the patient has at the time the physician informs the patient.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 448.30 (intro.) of the statutes is amended to read:

2 **448.30 ~~Information on alternate modes of treatment~~ Informed**
3 **consent.** (intro.) Any physician who treats a patient shall inform the patient about
4 the availability of all reasonable alternate, viable medical modes of treatment and
5 about the benefits and risks of these treatments. The reasonable physician standard
6 is the standard for informing a patient under this section. The reasonable physician
7 standard requires disclosure only of information that a reasonable physician in the
8 same or a similar medical specialty would know and disclose under the
9 circumstances. The physician's duty to inform the patient under this section does not
10 require disclosure of:

11 **SECTION 2.** 448.30 (1) of the statutes is repealed.

12 **SECTION 3.** 448.30 (7) of the statutes is created to read:

13 448.30 (7) Information about alternate medical modes of treatment for
14 conditions that the physician does not believe the patient has at the time the
15 physician informs the patient.

16 **SECTION 4. Initial applicability.**

a does not have
a physician exercising Reas. can not conclude that

1 (1) This act first applies to a cause of action that accrues on the effective date
2 of this subsection.



State of Wisconsin
2013 - 2014 LEGISLATURE

In 5-6-13

TODAY



LRBa0356/1

MED:.)....

sac

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 139**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 14: delete "the physician does not believe the patient has" and
3 substitute "a physician exercising reasonable care would conclude that the patient
4 does not have".

5 (END)